

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

December 20, 2007

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TO: Internal File

THRU: Pamela Grubaugh-Littig, Permit Supervisor *pag*
Steve Christensen, Team Lead *sjc*

FROM: Priscilla Burton, CPSSc, Environmental Scientist III *PWB by an*

RE: Permit Area Expansion – 560 Acres, Canyon Fuel Company, LLC, Dugout Mine, C/007/00039, Task ID #2873

SUMMARY:

The 560-acre lease area expansion is the total of the 320 acres state lease ML-50582-OBA and an additional 240.57 acres of federal coal lease U-07064-027821 the remaining 247 acres of which was already included in the plan. This information was received at the PFO on 10/25/2007. Approval is not recommended until the following details are resolved:

R645-301-121.200, Calculations of surface land ownership categories of fee and “other federal lands” on pages 1-9 and 1- 10 of Section 114 should be verified for accuracy. Calculations of coal ownership acreage for federal and state leases should be checked for accuracy.

R645-301-525.100 and R645-301-525.700, It appears from Plate 1-1 that landowners, George and Margaret Conover were inadvertently omitted from the subsidence survey notification. Please verify the surface ownership boundary and notify George and Margaret Conover, if their surface falls within the federal coal lease area.

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TECHNICAL ANALYSIS:

GENERAL CONTENTS

IDENTIFICATION OF INTERESTS

Regulatory Reference: 30 CFR 773.22; 30 CFR 778.13; R645-301-112

Analysis:

No change to existing information.

Findings:

The approved Mining and Reclamation plan meets the requirements of the Regulations.

VIOLATION INFORMATION

Regulatory Reference: 30 CFR 773.15(b); 30 CFR 773.23; 30 CFR 778.14; R645-300-132; R645-301-113

Analysis:

No change to existing information.

Findings:

The approved Mining and Reclamation plan meets the requirements of the Regulations.

RIGHT OF ENTRY

Regulatory Reference: 30 CFR 778.15; R645-301-114

Analysis:

Right of Entry information is found in the MRP Section 114 and Appendix 1-1. The federal lease is beneath surface land holdings of the George and Margaret Conover, the Thayn

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Trust, and Gil and Melody Conover. The Surface Owner Agreements between the latter two surface owners are included in Appendices 4-2 and 4-4 of the MRP.

Plates 7-1 and 7-2 show the location of a jeep trail on Gil L. Conover's land that is used to access the monitoring locations in the federal lease U-07064-027821. Appendix 4-4 provides documentation for the use of the trails. Mr. Conover is listed as an affected owner and his address is provided in Section 112.500 of the MRP.

Calculations of surface land ownership categories of fee and "other federal lands" on pages 1-9 and 1- 10 of Section 114 should be verified for accuracy. Calculations of coal ownership acreage for federal and state leases should be checked for accuracy.

Findings:

The information provided does not meet the Right of Entry requirements of the R645 Coal Rules.

R645-301-121.200, Calculations of surface land ownership categories of fee and "other federal lands" on pages 1-9 and 1- 10 of Section 114 should be verified for accuracy. Calculations of coal ownership acreage for federal and state leases should be checked for accuracy.

LEGAL DESCRIPTION AND STATUS OF UNSUITABILITY CLAIMS

Regulatory Reference: 30 CFR 778.16; 30 CFR 779.12(a); 30 CFR 779.24(a)(b)(c); R645-300-121.120; R645-301-112.800; R645-300-141; R645-301-115.

Analysis:

The permit area change does not affect the disturbed area boundary. The application does not change the status of unsuitability claims for the coal mining and reclamation operation as defined by the rules and by the 2003 District Court of Appeals Decision that subsidence is not considered "coal mining and reclamation operations" for the purposes of determining suitability.

Findings:

The available information meets the requirements of the Regulations.

PERMIT TERM

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Regulatory References: 30 CFR 778.17; R645-301-116.

Analysis:

The five-year permit was last issued March 21, 2007. This amendment does not change the permit renewal dates.

Findings:

The information available meets the requirements of the Regulations.

PUBLIC NOTICE AND COMMENT

Regulatory References: 30 CFR 778.21; 30 CFR 773.13; R645-300-120; R645-301-117.200.

Analysis:

Certificates of Insurance are located in the General Chapter 1 Volume, App. 1-2. There is no change to this information with this application.

The lease area boundary currently encompasses 9,511 acres. This amendment adds 560 acres. This amendment does not change the disturbed area boundary (97.6 acres as listed on page 1-9 of Section 114) and is not considered a significant revision and therefore, no public notice was required.

Findings:

The information presented meets the requirements of the regulations.

TOPSOIL AND SUBSOIL

Regulatory Reference: 30 CFR Sec. 817.22; R645-301-230.

Analysis:

There is no increased disturbed acreage and therefore no change to the topsoil salvage or reclamation plan. No additional soil survey information is required.

Findings:

The information provided meets the requirements of the regulations.

OPERATION PLAN

AIR POLLUTION CONTROL PLAN

Regulatory Reference: 30 CFR 784.26, 817.95; R645-301-244, -301-420.

Analysis:

The first two pages of the 2005 Air Quality Order DAQE# AN1634004-03 are provided in Appendix 4-1 of the MRP. The Permittee declined to provide the entire public document and instructed the Division to obtain the complete AO from the Division of Air Quality. The complete document was obtained and has been placed into the 2007 Incoming folder for the mine.

A Notice of Intent (NOI) was filed with the DAQ to change the Air Quality Order to increase allowable twelve-month throughput from 5 million tons to 7 million tons. According to the DEQ, the NOI application was filed on April 14, 2006 and has been amended several times since, with the last amendment dated January 2007.

There is no change to the air quality information with this amendment.

Findings:

The information provided meets the requirements for coordination with air quality.

SUBSIDENCE CONTROL PLAN

Regulatory Reference: 30 CFR 784.20, 817.121, 817.122; R645-301-521, -301-525, -301-724.

Analysis:

Renewable Resources Survey

Subsidence Control Plan

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Performance Standards For Subsidence Control

Notification

Notification letters are included in Appendix 5.12 specifically for 40 acres of federal lease U-07064-027821. It appears from Plate 1-1 that landowners, George and Margaret Conover were inadvertently omitted from this notification.

Notification letters for this Task 2873 expansion were included with the application and scanned into the 2007 Incoming folder as folder10222007.pdf. Again, George and Margaret Conover were not included in the notification.

Findings:

Prior to approval, the following information must be provided, in accordance with:

R645-301-525.100 and R645-301-525.700, It appears from Plate 1-1 that landowners, George and Margaret Conover were inadvertently omitted from the subsidence survey notification. Please verify the surface ownership boundary and notify George and Margaret Conover, if their surface falls within the federal coal lease area.

RECOMMENDATIONS:

Approval is not recommended at this time.